

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Time Warner Cable
Information Services (California), LLC
(U6874C) for Designation as an Eligible
Telecommunications Carrier.

Application 13-10-019
(Filed October 25, 2013)

**DECISION GRANTING REQUEST FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER STATUS****1. Summary**

This decision approves the application of Time Warner Cable Information Services (California), LLC (Time Warner California) seeking an order from the California Public Utilities Commission (Commission) designating Time Warner California as an Eligible Telecommunications Carrier. This proceeding is closed.

2. Background

Time Warner California seeks Eligible Telecommunications Carrier (ETC) designation for purposes of providing LifeLine service to qualifying low-income customers in California and receiving corresponding support from the federal universal service fund and the California LifeLine fund. Time Warner Cable Information Services (California), LLC (Time Warner California) does not seek ETC designation for purposes of obtaining federal high-cost support.

The Commission has authority to grant requests for designation of ETC status pursuant to Resolution T-17002 and in accordance with the federal delegation of authority set forth in the Communications Act in 47 U.S.C.

§ 214(e)(2) which states in part:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph [214(e)] (1) as an eligible telecommunications carrier for a service area designated by the State commission.¹

Only ETCs designated pursuant to § 214 (e) of the Federal Communications Act are eligible to receive Federal Lifeline support.

Time Warner California filed this Application on October 25, 2013, and the Commission categorized it as Ratesetting with hearing required on November 14, 2013. Commissioner Florio and Administrative Law Judge (ALJ) Bushey were assigned to the proceeding on November 19, 2013. Notice of the Application appeared on the daily calendar on November 6, 2013. The 30 days for protests ran on December 6, 2013. No protests were filed.

Time Warner California is a Delaware Limited Liability Company authorized to provide telecommunications services in California pursuant to a Certificate of Public Convenience and Necessity (CPCN) issued by this Commission on March 16, 2004, as set forth in Commission Decision (D.) 04-03-032.

Time Warner California stated in its application that it satisfies the statutory and regulatory requirements for ETC designation in California.

¹ 47 U.S.C. § 214(e)(2). All section references herein are to the Communications Act of 1934, as amended, unless otherwise specified.

Specifically, Time Warner California explained that it complies with the Commission's information requirements set forth in Resolution T-17002, Appendix A. Those requirements, which originate in the Federal Communication Commission's (FCCs) order, FCC 97-157, require Time Warner California to provide the following:

- The service area for which it requests ETC designation is the areas served by AT&T, Verizon, and Frontier Telephone;²
- The designated services are: "voice telephony services" including Voice grade access to the public switched network by which customers will be able to place and receive calls on the public switched telephone network;
- Time Warner California's local usage is comparable to service offered by the incumbent local exchange carrier (LEC);³
- Access to emergency services, such as 911 and enhanced 911, is provided, including the ability to deliver automatic numbering information and automatic location information over the existing network, in full compliance with California and federal E-911 requirements as applied to Voice Over Internet Protocol (VOIP) providers;
- Toll limitation is offered for all service plans that distinguish between local and toll calls;

² Time Warner California included with its application maps showing these areas as well as list of California municipalities located therein.

³ Time Warner California submitted its application prior to the Commission issuing D.14-01-036 which updated the requirements for Lifeline service. In its application, Time Warner stated that it planned to offer Lifeline-eligible customers an existing service plan for telephone service and deduct the Lifeline discount from the price. Time Warner California concluded that its service plans would be comparable (if not superior) to Lifeline services then offered by Lifeline providers in California.

- California Lifeline Service elements found in General Order 153 are offered to eligible Lifeline customers;⁴
- Available services will be advertised, with corresponding rates and charges, throughout the designated service area using media of general distribution in a manner designed to inform those likely to qualify for Lifeline service and the general public;
- Service will be provided within a reasonable time in the existing service area and outside service area where such service can be provided at a reasonable cost;
- Emergency back-up power and traffic rerouting around damaged facilities is included;
- Applicable California and Federal consumer protection and service quality standards will be met; and
- A flat rate local service option will be offered.

Time Warner California requests that the Commission waive the now-rescinded federal equal access rule, which persists in the Commission's resolution.

In conclusion, Time Warner California stated that it had the financial and technical capability to provide Lifeline service and will comply with applicable Federal rules for Lifeline service.⁵

⁴ These service elements were recently updated by the Commission in D.14-01-036. In its application Time Warner stated that it would comply with the Commission's decision on the then-pending revised service elements. Accordingly, prior to providing California Lifeline service, Time Warner California must comply with D.14-01-036 and submit a Tier 2 Advice Letter for approval of its California Lifeline program.

⁵ These rules include stating the service plan terms and conditions, not collecting service initiation deposits, not charging for number portability, certifying and verifying lifeline eligibility, and submitting a forbearance compliance plan.

3. Corporate Organization and VOIP

In its application, Time Warner California explained that it is a wholly owned subsidiary of Time Warner Cable Inc. The parent company currently provides VoIP services to nearly one million residential customers in California.

Time Warner California holds a CPCN from this Commission issued on March 16, 2004, as set forth above. Time Warner California will replace the third-party carrier previously relied on by its parent company to provide interconnection and traffic-exchange for the California customers. Time Warner California will provide its parent company with wholesale carrier functions relating to interconnection with the public switched telephone network and provide retail interconnected VOIP service as a telecommunications service pursuant to its CPCN.

Time Warner California acknowledged that it is a common carrier and is subject to regulation as a telecommunications carrier.

3.1. Discussion

Pursuant to Section 214(e)(2) of the federal Communications Act of 1934, 47 U.S.C. § 214(e)(2), this Commission is authorized to designate common carriers as ETCs and determine whether such designation is in the public interest. As set forth above, Time Warner California acknowledges that is a common carrier and holds a CPCN from this Commission. As a CPCN holder, Time Warner California offers, by tariff on file with the Commission, Basic Service and LifeLine service to the public on a nondiscriminatory basis and it holds itself out to serve indifferently all potential users.

We find that Time Warner California satisfies both federal and state requirements as a common carrier with a Commission-issued CPCN and whose service as an ETC is consistent with the public interest, convenience and necessity. Although Time Warner California provides telecommunication service with VOIP technology, Time Warner California agrees that it is a common carrier by virtue of its CPCN from this Commission and by offering services on a nondiscriminatory basis. Accordingly because it meets these elements in § 214(e)(2), Time Warner California is subject to the jurisdiction of this Commission, and this Commission may grant the ETC status.

Resolution T-17002, requires an ETC applicant to demonstrate that it will (1) provide supported services within its designated service territory and to certify it will provide service on a timely basis to customers passed by the ETC's facilities and (2) provide service "within a reasonable time" to customers who are not passed by the ETC's facilities "if service can be provided at reasonable cost[.]" As set forth above, Time Warner California stated that it will comply with the requirements of this Resolution and General Order 153 for Lifeline service.

We conclude that Time Warner California satisfies the requirements of Resolution T-17002.

The FCC requires an applicant for ETC designation to demonstrate its ability to remain functional in emergency situations. This demonstration includes information about back-up facilities, the ability to re-route traffic around damaged facilities and the ability to handle traffic spikes. Time Warner California explained in its application that it has designed its network to be resilient in emergencies, and has included back-up power in its network designs

to help ensure that its customers retain service even when commercial power is unavailable.

Designating Time Warner as an ETC so that it may participate in and seek reimbursement from the California LifeLine program will promote competition, is consistent with Commission policy that carriers providing Basic Service must offer LifeLine, and will help ensure that current and future customers receive LifeLine service.

Under § 214(e) and FCC Rules, an ETC must provide the services supported by the universal service program throughout its designated service area, using its own facilities or by reselling another carrier's facilities. The services that ETCs must provide to be deemed eligible for federal universal service support are:

Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.⁶

Under § 214(e)(1)(B), an ETC is required to "advertise the availability of [its] services and the charges therefore using media of general distribution." As described above, Time Warner California plans to advertise broadly and reach a wide audience in its service area in California.

⁶ 47 C.F.R. § 54.101(a).

For all of the reasons discussed above, we find that Time Warner California meets the requirements for designation as an Eligible Telecommunications Carrier pursuant to § 214(e)(2) of the federal Communications Act of 1934, and that no hearing is required. Accordingly, we approve and grant Time Warner California's request for ETC designation.

4. Comments on Proposed Decision

This is an uncontested matter on which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

5. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. Time Warner California is a certificated provider of local exchange service and long distance service in California pursuant to its Commission-issued CPCN.

2. Time Warner California requires ETC designation for purposes of providing LifeLine service to qualifying low-income customers in California and receiving corresponding support from the federal universal service fund and the California LifeLine fund.

3. Time Warner California will provide Basic Service and LifeLine service pursuant to tariff on file with the Commission.

4. Time Warner California will operate as a common carrier offering Basic Service and LifeLine service to the public on a nondiscriminatory basis and it holds itself out to serve indifferently all potential users.

5. Time Warner California will comply with current and future laws applicable to providers participating in the state and/or federal LifeLine programs and to holders of CPCNs, including without limitation applicable Commission decisions and General Orders (i.e. GO 153, GO 133-C and GO 168).

6. Designating Time Warner California as an ETC is consistent with Resolution T-17002, D.12-12-038, Pub. Util. Code §§ 285 and 710 and the Commission's universal service goals.

7. Resolution T-17002, requires an ETC applicant to demonstrate that it will:

- (a) provide supported services within its designated service territory and to certify it will "provide service on a timely basis" to customers passed by the ETC's facilities; and
- (b) provide service "within a reasonable time" to customers who are not passed by the ETC's facilities "if service can be provided at reasonable cost[.]"

8. Time Warner California's Application includes all requisite information and is consistent with the requirements set forth in Resolution T-17002.

9. Designating Time Warner California as an ETC subject to compliance with the terms and conditions set out in today's decision is in the public interest.

10. No hearing is required.

Conclusions of Law

1. The request of Time Warner California for ETC designation should be approved.

2. The Commission has delegated authority from the FCC for designating ETC status to a common carrier, as found in 47 U.S.C. § 214(e)(2).

3. The approval of Time Warner California's request for ETC status is consistent with the requirements of Section 710 of the Public Utilities Code and consistent with the Commission's jurisdiction expressly delegated by applicable federal law and statute.

4. To the extent that Time Warner California increases the scope of its service area in the future, the ETC designation granted herein will cover any additional non-rural territories that Time Warner California serves as a consequence of that increase in scope.

5. Designating Time Warner California as an ETC is consistent with D.10-11-033 and D.12-12-038.

O R D E R

IT IS ORDERED that:

1. The request of Time Warner Cable Information Services (California), LLC, to be designated as an Eligible Telecommunications Carrier is granted as set forth herein.

2. No hearing is required.

3. Application 13-10-019 is closed.

This order is effective today.

Dated _____, at San Francisco, California.